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By: *[Signature]*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

E. HELINSKI :

SERIAL NO. 09/113,712 :

FILED: JULY 10, 1998 :

Art Unit: 3724

FOR: CONCENTRIC ALIGNMENT AND
DEVICE FOR DIES AND
DIE STRIPPER :

Examiner: C. Dexter

Hon. Commissioner of Patents
And Trademarks
Washington, D.C. 20231

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REQUEST FOR REINSTATEMENT OF THE APPEAL

Sir:

Appellant hereby requests reinstatement of the Appeal. Attached hereto in triplicate is a Supplemental Appeal Brief addressing the new issue raised in the Office Action of April 23, 2002.

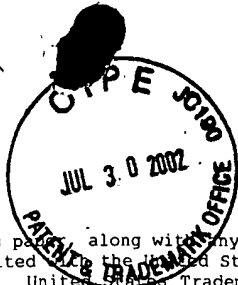
If any fee is required for this request for reinstatement of the appeal and the filing of this Supplemental Appeal brief, such fee should be charged to Deposit Account No. 09-0457.

Respectfully submitted,
Connolly Bove Lodge & Hutz LLP

By: *[Signature]*

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By: Charles B. [Signature]

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SUPPLEMENTAL APPEAL BRIEF

Sir:

REAL PARTY IN INTEREST

Appellant incorporates by reference the corresponding section of the original appeal brief.

RELATED APPEALS AND INTERFERENCES

Appellant incorporates by reference the corresponding section of the original appeal brief.

STATUS OF ALL CLAIMS

Appellant incorporates by reference the corresponding section of the original appeal brief.

STATUS OF AMENDMENTS

Appellant incorporates by reference the corresponding section of the original appeal brief.

SUMMARY OF THE INVENTION

Appellant incorporates by reference the corresponding section of the original appeal brief.

ISSUES

Appellant incorporates by reference the corresponding section of the original appeal brief.

In addition, an issue raised in the Office Action of April 23, 2002, is whether claims 1-11 and 21-22 comply with 35 USC § 112 as containing subject matter sufficient to disclose the connecting structure between the upper and lower dies and the upper and lower housings, particularly structure which allows the dies to be rotated within the housings while still enabling the dies to be held in place sufficiently to form punching operations.

GROUPING OF CLAIMS

Appellant incorporates by reference the corresponding section of the original appeal brief. With regard to the rejection under 35 USC § 112 all of claims 1-11 and 21-22 may be grouped together.

ARGUMENT

Appellant incorporates by reference the corresponding section of the original appeal brief with regard to the rejections over the prior art. In the Office Action dated April 23, 2002, the rejections over the prior art were simply a repeat of the same rejections made in the final rejection on which the original appeal was based.

I. REJECTION UNDER 35 USC § 112

A. The Rejection By The Examiner

In the April 23, 2002, Office Action, after appellant filed his original appeal brief the claims under appeal were rejected under 35 USC § 112 first paragraph. The Examiner took the position that "The original disclosure does [not] sufficiently disclose the connecting structure between the upper and lower dies and the upper and lower housings, particularly structure which allows the dies to be rotated within the housings while still enabling the dies to be held in place sufficiently to perform punching operations. Further, it appears that, to operate, the upper dies must be moved out of the lower housing to allow for passage of the workpiece between the dies. However, applicant appears to contend that a free sliding of the dies does not necessarily result (see arguments on page 9 of the Brief). Thus, if no sliding movement is possible it is not clear how the punching apparatus is operable with one of the dies in both housings (e.g., as shown in Figure 2). If sliding as well as

rotational movement is possible, it is not clear how the dies are supported/held in the die housings to rotate and slide therein."

While making the above rejection the Examiner concluded "While one having ordinary skill in the art may have assumed in reading applicant's disclosure that the fit between the dies and housings would be provided by a pressure/friction fit, for example, a light pressure fit which allows for such rotational and operational purposes, applicant appears to argue against such a die holding configuration. Thus, the Examiner respectfully submits that it is not at all clear as to how the dies are sufficiently held in the housings to enable the disclosed alignment adjustment while also enabling operation of the punching apparatus."

B. The Disclosure Complies With 35 USC §112

Figure 1 illustrates a prior art punch and die assembly. As shown therein the lower die 15 is mounted in the lower housing 13 and terminates at the upper end of the lower housing in line with upper die 9 which is mounted in upper housing 11. Upper die 9 terminates at the lower end of upper housing 11 generally juxtaposed to lower die 15 so that the substrate 21 can be located there between. The lower die 15 is a cutting die in that it includes a cutting surface 20 (page 6, lines 1-6).

The present invention relates to a precise alignment of the dies. This is accomplished by having at least one of the dies being rotatable in its die receiving passage so that the upper

and lower dies can be rotated relative to each other as optimally close as concentrically permitted by the dies and the upper housing and the lower housing. (Page 12, lines 15-20) Once the dies are aligned, an alignment mark may be created or otherwise applied so that the alignment can be recreated by simply realigning the alignment marks. (Page 13, lines 4-9) "Also, prior to alignment the upper die may be inserted into the die receiving passage in the lower housing and/or the lower die may be inserted in the die receiving passage of the upper housing to ensure proper fit of the dies in those passages as well." (Page 14, lines 18-22) Thus, Figure 2 illustrates this condition wherein the upper die is inserted into the die receiving passage in the lower housing to insure proper fit.

It is clear from the description that the punch and die assembly illustrated in Figure 2 would otherwise operate generally similar to that of comparative prior art Figure 1.

C. Argument

One basis of the Section 112 rejection is that "...it is not clear how the punching apparatus is operable with one of the dies in both housings (e.g., as shown in Figure 2)." This matter was raised earlier in the prosecution, i.e. the May 8, 2000 Office Action. The subsequent amendment of July 7, 2000 pointed out that "Fig. 2 illustrates an embodiment of a punch and die assembly according to the present invention in the process of aligning the dies". (emphasis added) This explanation was apparently

sufficient because the rejection was not repeated in either of the two subsequent Office Actions. The explanation also finds support at page 14, lines 18-22 which refers to the condition "prior to alignment" where "the upper die may be inserted into the die receiving passage in the lower housing...to ensure proper fit...". This is stated as being a condition prior to alignment and not the condition of the components during operation which would be the condition shown in Figure 1.

The primary basis of the Section 112 rejection is the Examiner's conclusion that there is not sufficient structure disclosed which would permit both rotation and sliding of the dies while still maintaining the dies in a desired location/orientation for operational purposes. The claims had been the subject of six prior Office Actions. In none of those Office Actions did the Examiner question the sufficiency of disclosure on that basis. Indeed in the last Office Action wherein the claims were rejected under 35 USC § 112, the Examiner aptly observed that "...one having ordinary skill in the art may have assumed in reading applicant's disclosure that the fit between the dies and the housings would be provided by a pressure/friction fit, for example a light pressure fit which allows for such rotational and sliding movement but still maintains the dies in a desired location/orientation for operational purposes..." This is the very disclosure which the Examiner has now raised as being lacking. Appellant completely agrees with

the assumption by the Examiner that the disclosure does teach one of ordinary skill in the art to utilize a sufficient pressure/friction fit, namely, a light pressure fit which would allow for the movements yet maintain the dies in the desired location/orientation for operational purposes.

Apparently what has changed from the first six Office Actions and the last Office Action is a statement in the Appeal Brief on page 9, namely, "such clearance is possible wherein rotation can be achieved but a free sliding of the die does not necessarily result." This is the statement referred to in the rejection. That statement, however, is totally consistent with the conclusion the Examiner reached that one of ordinary skill in the art would realize that a light pressure fit would produce the intended results. The term "free sliding" used in the Appeal Brief is used in the sense of the pressure or friction being sufficient (i.e., not a loose fit) that such "free" sliding would result. In other words where there is a light pressure fit the die could be moved or adjusted but "free sliding" would not result. Thus, the statement in the Appeal Brief is consistent with what the examiner correctly acknowledges one of ordinary skill in the art would assume. In any event, the question of whether the disclosure is enabling or sufficient should be based upon the disclosure itself and not upon statements or representations made in arguments. As the Examiner admits,

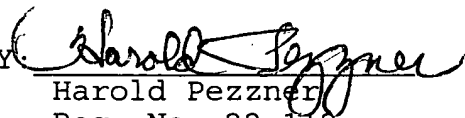
consistent with his six prior Office Actions, the disclosure is sufficient to comply with 35 USC § 112.

III. CONCLUSION

In view of the above and in view of the reasons submitted in the original Appeal Brief, the Examiner should be reversed in his rejections.

Respectfully Submitted,
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